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HOUSE RESEARCH ORGANIZATION

daily floor report

Wednesday, March 22, 2017
85th Legislature, Number 37
The House convenes at 10 a.m.

Five bills are on the daily calendar for second reading consideration. The table of contents appears on the following page.

The following House committees were scheduled to hold public hearings: Agriculture and Livestock in Room E1.010 at 8 a.m.; Ways and Means in Room E2.012 at 8 a.m.; Higher Education in Room E2.030 at 10:30 a.m. or on adjournment; Defense and Veterans' Affairs in Room E1.026 at 10:30 a.m. or on adjournment; Juvenile Justice and Family Issues in Room E2.016 at 10:30 a.m. or on adjournment; Natural Resources in Room E2.010 at 10:30 a.m. or on adjournment; State Affairs in Room JHR 140 at 10:30 a.m. or on adjournment; and Land and Resource Management in Room E2.026 at 2 p.m. or on adjournment.

The following Senate committees were scheduled to hold public hearings: Higher Education in Room E1.012 at 8 a.m.; Health and Human Services in the Senate Chamber at 8 a.m.; Transportation in Room E1.016 at 8 a.m.; Intergovernmental Relations in Room E1.028 at 9 a.m.; Finance in Room E1.036 at 10 a.m.; and Veteran Affairs and Border Security in Room 2E.20 at 1:30 p.m. or on adjournment.



Dwayne Bohac
Chairman
85(R) - 37

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Wednesday, March 22, 2017

85th Legislature, Number 37

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HB 886 by King	Revising provisions governing Hemphill County special district	3
HB 268 by Lozano	Establishing venue in obstruction or retaliation cases	5
HB 351 by Canales	Making judicial determinations of indigence at initial sentencing	7
HB 1434 by Simmons	Information on driving with autism in driver's license offices	9

SUBJECT: Changing the Rusk County groundwater district board election date

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 9 ayes — Larson, Phelan, Burns, Frank, Kacal, T. King, Lucio, Price, Workman

0 nays

1 absent — Nevárez

1 present not voting — Ashby

WITNESSES: For — (*Registered, but did not testify:* Amanda Maloukis, Rusk County Groundwater Conservation District)

Against — None

BACKGROUND: The Rusk County Groundwater Conservation District holds an election for its board of directors on the first Saturday in May of each even-numbered year.

DIGEST: HB 651 would change the election date for the Rusk County Groundwater Conservation District’s board of directors to the uniform election date in November (the first Tuesday after the first Monday in November) of each even-numbered year.

A director serving on the board before the effective date of this bill would serve until the director’s term expires. A director with a term set to expire in May 2018 or 2020 would continue to serve until the election of a successor in November of the corresponding year.

The bill would take effect September 1, 2017.

SUPPORTERS SAY: HB 651 would help more constituents vote in the Rusk County Groundwater Conservation District’s board election by requiring that it be held on the uniform election date in November, on which turnout is

typically higher than in May elections. More involvement by residents of Rusk County would benefit the area because decisions made by the groundwater district have a significant effect on economic development and water-related issues in the area.

The change in election date also would reduce costs by allowing the district to share facilities and voting materials with the county during a general election. Running a single election during even-numbered years would be a better use of the district's limited budget and taxpayer dollars.

OPPONENTS
SAY:

No apparent opposition.

SUBJECT: Revising provisions governing Hemphill County special district

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 10 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Lucio, Price, Workman

0 nays

1 absent — Nevárez

WITNESSES: For — (*Registered, but did not testify:* Robby Cook, Hemphill County Underground Water Conservation District; Charlie Schnabel, Manville Water Supply Corporation)

Against — None

BACKGROUND: The enabling legislation for the Hemphill County Underground Water Conservation District, HB 1493 by Chisum, enacted by the 74th Legislature in 1995, grants the district all the powers and duties provided to certain districts by chapters 50 and 52 of the Water Code. It directs the district to hold an election for directors of the board on the first Saturday in May every subsequent second year after the district was created.

DIGEST: HB 886 would grant the Hemphill County Underground Water Conservation District all the powers and duties applicable to groundwater conservation districts under Water Code, ch. 36. References to chapters 50 and 52 would be removed in the district's enabling provisions.

Under the bill, the Hemphill County Underground Water Conservation District would hold an election for the board of directors on the uniform election date in May (first Saturday) of each even-numbered year.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

**SUPPORTERS
SAY:**

HB 886 would revise the Hemphill County Underground Water Conservation District's enabling legislation to remove conflicts with chapter 36 of the Water Code. It would update outdated provisions and position the district's enabling legislation to be more easily codified at some point. Similar statutory changes were made in 2015 to eight groundwater conservation districts through the enactment of SB 1336 by Perry.

The bill also would clarify that the district board election would be held on the uniform election date in May.

The Hemphill County Underground Water Conservation District has made all relevant public notice statements to inform citizens of the proposed changes.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

A companion bill, SB 689 by Seliger, was reported favorably on March 14 by the Senate Committee on Agriculture, Water, and Rural Affairs and recommended for the Local and Uncontested Calendar.

SUBJECT: Establishing venue in obstruction or retaliation cases

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Moody, Hunter, Gervin-Hawkins, Hefner, Lang, Wilson
0 nays
1 absent — Canales

WITNESSES: For — Janna Whatley; (*Registered, but did not testify*: Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT))

Against — None

On — (*Registered, but did not testify*: Shannon Edmonds, Texas District and County Attorneys Association)

BACKGROUND: Penal Code, sec. 36.06 makes it a crime under obstruction or retaliation to harm or threaten to harm someone because of the individual's service or status as a public servant, witness, prospective witness, or informant. It is also an offense under this section to harm or threaten to harm someone because the person has reported or a crime or because the offender knows the person intends to report a crime.

DIGEST: HB 268 would create statutory venue options in obstruction or retaliation cases. Under the bill, obstruction or retaliation could be prosecuted in the county where the harm occurred or in the county where the threat of harm originated or was received.

The bill would take effect September 1, 2017, and would apply only to venue for the trial of an offense committed on or after that date.

SUPPORTERS SAY: HB 268 would clarify where venue could be established in retaliation crimes and bring it in line with similarly structured crimes for which origination and harm can occur in different counties. As with such crimes, the venue in retaliation cases could be in the county where the offense

originated. HB 268 would provide clarity and consistency to venue rules.

HB 268 would help protect victims and their families, who could be subjected to unnecessary distress when those who made threats to their safety, family, and home are brought to their communities. This could create a disincentive to pursue a case.

Venue in retaliation cases currently is governed by case law that often is interpreted as providing venue solely in the county where a threat was received but not where it originated. This means that a victim must have the case prosecuted in the victim's home venue, even if the perpetrator lives somewhere else. A judge receiving death threats from a prisoner in another county must endure having the accused brought to the judge's rural county for trial, raising security concerns for the judge and others in a small courthouse.

For cases involving defendants who are incarcerated, HB 268 would prevent those defendants from receiving the benefit of a "field trip" from prison or jail to another county for trial. It also would help smaller counties avoid the logistical and practical difficulties of handling state prisoners in their jails.

OPPONENTS
SAY:

No apparent opposition.

SUBJECT: Making judicial determinations of indigence at initial sentencing

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Moody, Hunter, Canales, Gervin-Hawkins, Hefner, Lang, Wilson
0 nays

WITNESSES: For — Margaret "Peggy" Cook and Chas Moore, Austin Justice Coalition; Ted Wood, Harris County Public Defender's Office; Mary Mergler, Texas Appleseed; Emily Gerrick, Texas Fair Defense Project; Haley Holik, Texas Public Policy Foundation; Chris Howe; (*Registered, but did not testify*: Nicholas Hudson, American Civil Liberties Union of Texas; Goodman Holiday, Austin Justice Coalition; Charles Reed, Dallas County Commissioners Court; Jesse Ozuna, City of Houston Mayor's Office; Kathryn Freeman, Texas Baptist Christian Life Commission; David Gonzalez, Texas Criminal Defense Lawyers Association; Kathy Mitchell, Texas Criminal Justice Coalition; Deanna L. Kuykendall, Texas Municipal Courts Association; Rachel Malone)

Against — None

BACKGROUND: Code of Criminal Procedure, art. 43.09(f) provides that a judge may assign community service to a criminal defendant who is unable to pay the court fines or costs. For a defendant who defaults on fines or costs, art. 43.091 allows a judge to waive all or part of the fines or costs assessed if the defendant is indigent or under the age of 17 and alternative methods would yield undue hardship to the defendant.

DIGEST: HB 351 would allow judges to assess community service in lieu of fines or court costs at initial sentencing or any subsequent time regardless of whether the defendant had defaulted on assessed fees or costs.

A judge could waive all or part of the fines or costs assessed without first waiting for the defendant to default.

The bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

HB 351 would clarify the intended purpose of current law, which is that judges should consider criminal defendants' ability to pay fines and court costs before sentencing them. Currently, in some circumstances an indigent criminal defendant must default before the court rules that the individual is truly unable to pay. This bill would help put the justice system's time and resources to more efficient use by determining indigence at the initial sentencing, rather than waiting for the defendant to default, possibly get arrested, and come back before the judge again.

Local governments would not lose revenue as a result of this change and could save money by avoiding the costs of housing and feeding in jail those people who could least afford a disruption in their ability to earn.

This bill could reduce indigent defendants' apprehension about dealing with the court system by addressing their inability to pay fines or court costs earlier in the process. Many indigent defendants are afraid to go to court, either because of work and family obligations or because they do not think they will be able to afford whatever they are asked to pay. This can result in further criminal sanctions that can be more severe than the initial charge, leading to even more involvement in the criminal justice system.

Concerns about a negative impact on the justice system are misplaced. The bill simply would clarify that indigent defendants are protected under state law from confinement solely for their inability to pay a fine without first being provided a realistic alternative.

**OPPONENTS
SAY:**

HB 351 is unnecessary because under current law when indigent defendants are unable to pay a fine, in most cases they can explain their situation to a court and the court will work with them.

The criminal justice system relies primarily on fines to deter low-level offenses. Even incremental changes could contribute to a culture in which there is decreased incentive to comply with the law. Localities also could lose money used to help cover the costs associated with some convictions.

SUBJECT: Information on driving with autism in driver's license offices

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 7 ayes — P. King, Burns, Hinojosa, Holland, Metcalf, Schaefer, Wray
0 nays
2 absent — Nevárez, J. Johnson

WITNESSES: For — Jennifer Allen, Aspergers101
Against — None
On — Joe Peters, Department of Public Safety; Ronald Paul Lucey, Governor's Committee on People with Disabilities

BACKGROUND: Transportation Code, sec. 521.125 requires the Department of Public Safety to print on the reverse side of a driver's license, as space allows, any medical information relating to a licensee's health condition that may impede communication with a peace officer. This medical information must be disclosed voluntarily by a license applicant and evidenced by a written statement from a physician. The department also must, as space allows, place a uniform symbol or code on the face of the license where a restriction is indicated.

DIGEST: HB 1434 would allow informational materials and videos on driving with autism to be made publicly available inside driver's license offices. The materials would be developed by an appropriate entity determined by the Department of Public Safety.

The bill would take effect September 1, 2017.

SUPPORTERS SAY: HB 1434 would help spread awareness about the "communication impediment" restriction available to drivers diagnosed with autism or another health condition that results in a speech or social communication impediment by allowing informational materials to be made available in

driver's license offices. An increase in awareness could lead to more eligible drivers seeking this designation, resulting in better communication with peace officers and a reduction in barriers to transportation for drivers with certain health conditions.

These brochures, posters, and other materials would help not only drivers with autism but those with other communication impediments by listing the health conditions that can make someone eligible for the restriction. Communication impediments may result from a neurodevelopmental disorder, such as Asperger's syndrome, deafness, or speech and language disorders, or from an acquired condition, such as Parkinson's disease, loss of hearing, brain injury, or post-traumatic stress disorder.

Drivers with these health conditions may face challenges when communicating with peace officers during a traffic stop, but having the communication impediment designation on a driver's license could allow drivers to alert peace officers to their communication challenges or difficulty understanding social cues and avoid unnecessary frustration for both parties.

Raising awareness about the communication impediment restriction could help eliminate barriers to transportation for those with these health conditions. The presence of the restriction could lead to reduced anxiety for those driving with autism and for their family members, increasing the willingness to drive. Access to personal transportation increases independence and provides greater opportunities in society.

Legislation would help keep the Legislature aware of the information available in driver's license offices. An organization seeking to make information available would work in consultation with the department to create appropriate materials and would assume the costs associated with producing the materials.

OPPONENTS
SAY:

No apparent opposition.

NOTES: An identical companion bill, SB 853 by Nelson, was referred to the Senate Committee on Transportation on February 27.